

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

CESAR Y. CATIBAYAN,  
Plaintiff,  
v.

No. 3:13-cv-00273-HU

**OPINION AND  
ORDER**

SYCIP GORRES VELAYO & CO. (SGV),  
a.k.a SGV/ERNST & YOUNG (SGV/EY),  
a Philippine accounting firm.  
Defendant.

HUBEL, Magistrate Judge:

Before the court is Plaintiff Cesar Catibayan's ("Plaintiff") motion for appointment of counsel. For the reasons set forth below, Plaintiff's motion (ECF No. 4) for appointment of counsel is DENIED.

Pursuant to 28 U.S.C. § 1915(e)(1), this court has discretion to request volunteer counsel for indigent plaintiffs in exceptional circumstances. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009); *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004); *Wood v. Housewright*, 900 F.2d 1332, 1335 (9th Cir. 1990); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986).

1 In order to determine whether exceptional circumstances exist, this  
2 court evaluates the plaintiff's likelihood of success on the merits  
3 and the ability of the plaintiff to articulate his or her claim *pro*  
4 *se* in light of the complexity of the legal issues involved.  
5 *Palmer*, 560 F.3d at 970; *Agyeman*, 390 F.3d at 1103. However,  
6 "[n]either of these factors is dispositive and both must be viewed  
7 together before reaching a decision on request of counsel under  
8 [former] section 1915(d)." *Wilborn*, 789 F.2d at 1331.

9 Having considered both elements, it does not appear at this  
10 time that exceptional circumstances are present that would require  
11 the appointment of counsel in this case. Plaintiff is in no  
12 different position than many *pro se* litigants. Plaintiff has filed  
13 a detailed, 15-page, typewritten, double-spaced complaint setting  
14 forth his factual allegations and claims. He appears well able to  
15 articulate his case. He also appears to be able to afford  
16 representation based on the information he provided regarding his  
17 current financial situation.

#### 18 CONCLUSION

19 Based on the foregoing, Plaintiff's motion for appointment of  
20 counsel (ECF No. 4) is DENIED. The deadline for Plaintiff to  
21 respond to Defendant's motion to dismiss for lack of jurisdiction,  
22 filed on March 19, 2013, is extended to April 26, 2013. Defendant's  
23 reply brief is due on May 8, 2013.

24 IT IS SO ORDERED.

25 Dated this 26th day of March, 2013.

26 /s/ Dennis J. Hubel

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DENNIS J. HUBEL  
28 United States Magistrate Judge